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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/074,488

02/12/2002

Jerry Kellgren

7328

7590

10/06/2003

Robert L. Marsh

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EXAMINER

PHASGE, ARUN S

ART UNIT

PAPER NUMBER

1753

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,488

Applicant(s)

KELLGREN, JERRY

Examiner

Arun S. Phasge

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 13, 19, 20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) 7-12, 14-18, 21, 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies, WO 95/21795 in view of Hough, U.S. Patent 6,110,353.

Davies discloses the claimed method and apparatus for the oxygenating ground water comprising a length of tubing having inlet and outlet, a plurality of electrodes within said tubular wall, said electrodes having a spacing between

adjacent ones, means for applying electric potential across pairs of said electrodes and across said spacing, a pump for moving water through said tubing (see figure 5). The reference further discloses the use of a filter before the entering of the electrolytic cell (see figure 5). The reference does disclose the upwardly moving water (see figure 6).

The reference does not disclose the use of parallel plates, rather it uses concentric electrodes (see figure 1-4). The Hough patent is cited to show the use of parallel electrodes (see figures 3-4). Therefore, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the disclosure of the Davies in view of the teachings of the Hough patent, because the Hough patent teaches the use of the parallel plate electrodes provides the oxygenated water.

The reference further does not disclose the placement of the cell in a well in the ground, however, the reference does disclose the insitu treatment of the groundwater.

Consequently, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the

disclosure of the Davies reference, because the patent teaches the use of the cell insitu.

Allowable Subject Matter

Claims 7-12, 14-18, 21 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: none of the references of record disclose the use of pump having an inverted funnel having a frustoconical portion as claimed. Another embodiment recites the first and second end members abutting the plurality of plates.

Conclusion

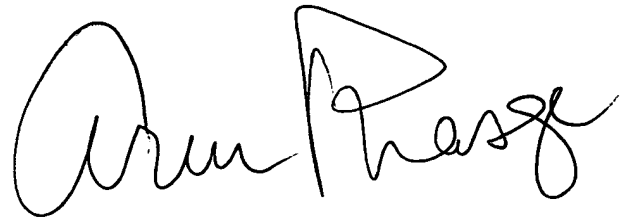
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Phasge whose telephone number is (703) 308-2528. The examiner can normally be reached on MONDAY-THURSDAY, 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X Nguyen can be reached on (703) 308-3322. The fax

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phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'Arun Phasge'. The signature is fluid and cursive, with a large initial 'A' and a stylized 'P'.

Arun S. Phasge
Primary Examiner
Art Unit 1753

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